Calendar No. 108

98TH CONGRESS
1st Session

SENATE

REPORT
No. 98-68

BICENTENNIAL OF THE CONSTITUTION

REPORT

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

TO ACCOMPANY

S. 118

APRIL 28 (legislative day, APRIL 26), 1983.—Ordered to be printed

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[98TH CONGRESS]

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BICENTENNIAL OF THE CONSTITUTION

APRIL 28 (legislative day, APRIL 26), 1983.—Ordered to be printed

Mr. THURMOND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 118]

The Committee on the Judiciary, to which was referred the bill (S. 118), a bill to promote and coordinate activities to commemorate the bicentennial of the Constitution, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

1. INTRODUCTION AND PURPOSE OF BILL

September 17, 1987, will be the 200th anniversary of the approval in Convention of the Constitution of the United States of America. Perhaps the significance of this historic event is best summarized by the findings in section 2 of S. 118:

> SEC. 2. The Congress finds that—
>
> (1) The bicentennial of the Constitution Convention's occurs on September 17, 1987;
>
> (2) the Constitution enunciates the limitations on government, the inalienable rights of man, and the timeless principles of individual liberty and responsibility for the people of the United States of America;
>
> (3) this document has set an enduring example of representative democracy for the world; and
>
> (4) the maintenance of the common principles that animate our republic depend upon a knowledge and understanding of their roots and origins.

Former President Gerald R. Ford, testifying at a March 1 hearing on the commemoration of the Bicentennial quoted Grover Cleveland who remarked at the time of the Constitution's Centennial commemoration:

> If the American people are true to their sacred trust another centennial day will come, and millions yet unborn will inquire concerning our stewardship and the safety of their Constitution. God grant they may find it unimpaired; and as we rejoice today in the patriotism and devotion of those who lived 100 years ago, so may those who follow us rejoice in our fidelity and love for constitutional liberty. "Public Papers of Pres. Cleveland," address of September 17, 1887, in Philadelphia.

We are now swiftly approaching the second centennial of the Constitution when President Cleveland promised that "millions yet unborn" would "rejoice" because the American people have been "true to their sacred trust." Just as the United States paused a century ago under the leadership of President Cleveland to examine the "patriotism and devotion of those who lived 100 years" earlier and to chart a course for "those who follow," the bicentennial of the Constitution offers anew the opportunity for the Nation living under that document to educate itself, to evaluate itself, and to rededicate itself.

This educating, evaluating, and rededicating experience will be vital to insure that "those who follow us" a century hence will "rejoice in our fiidelity and love for constitutional liberty."

A hearing held during the 97th Congress by the Constitution Subcommittee highlighted the importance of this bicentennial commemoration to educate, evaluate, and rededicate Americans to our constitutional Republic. The dire need for nationwide education about our system of constitutional freedoms was established by Mr. Richard B. Morris, professor of history emeritus, Columbia University:

> Granted the Constitution's central place in American political life, it is hardly disputable that the public's understanding of the Constitution is at a low ebb, and that young people completing high school take with them an abysmal sum of ignorance about the constitutional system of this Nation.
>
> * * * * *
>
> In the two national assessments of performance on citizenship, made first in 1969 and the second as recently as 1976, it was disturbing to find that test scores declined. More disturbing was the revelation that scores on citizenship an social studies declined more than those in reading, writing, and science. The declines for the 17-year-olds were by and large greater than for the 9-year-olds and the 13-year-olds.
>
> Half the students of each age thought that the President could appoint the Members of Congress. Only a little more than half of the 17-year-olds and 32 percent of the 13-year-olds knew that each State has two Senators. Less than half of the 17-year-olds and less than one-fourth of the 13-year-olds knew that appointments to the Supreme Court must be confirmed by the Senate, while a big majority of the 17-year-olds felt that a two-thirds vote by the justices of the Supreme court was necessary to declare a law unconstitutional. Hearing before the Subcommittee on the Constitution of the Senate Judiciary Committee on the Establishment of a Commission on the Bicentennial of the Constitution, 97th Congress, 1st session, September 17, 1981 (hereinafter 97th Congress Hearing, supra.)

This bicentennial offers an opportunity to correct this educational problem and foster a better understanding of our representative government. Because ours is a "government of the people, by the people, for the people," its function and survival very directly depend on the capacity of the people to convert an understanding of our constitutional system into self-government and citizen participation. The Republic depends on citizens to vote responsibly, to hold public offices, to serve in the Armed Forces, to give testimony at public hearings, to participate in juries, to engage in discussions of public affairs, to offer voluntary service in community settings, and to raise the responsible citizens of the future in family settings. Without a working knowledge of our charter of freedoms and voluntary activities in conjunction with such understanding, our participatory government would soon perish. Our Government is only as strong as the understanding and will of the people who comprise it. In a very real sense, the educational aspect of this bicentennial commemoration is a "national defense" program.

Addressing some of these same concerns, during a hearing held on March 1, 1983, Chief Judge Howard T. Markey, of the U.S. Court of Appeals, commented:

> We have all read occasional news accounts in which an enterprising reporter asks the man-in-street whether certain rights now recognized in the Constitution should be guaranteed: and many of those queried answered, "No." * * * That is not evidence that the people are either preparing or willing to unmake the Constitution, of course. It may be taken as a warning, however, that the Constitution can be unmade subtlely—as much by negligence and neglect, as by device and design. It may also be taken as an indication that a major role for a Commission would appear to be the encouragement of learning about the Constitution and its towering magnificence among the governmental charters in history. 98th Congress, 1st session, March 1, 1983 (hereafter 98th Congress Hearing, supra).

This bicentennial offers also the opportunity to evaluate the successes of our governing institutions since their inauguration in 1787. The Founding Fathers set forth standards for assessment. They expected the "self-evident truth that all men are created equal" to guarantee that all "are endowed by their Creator with certain inalienable rights," including the rights to "life, liberty and the pursuit of happiness." Indeed, they asserted, "that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed." They further expected their efforts "to form a more perfect Union, establish justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the blessings of liberty." The success of our institutions could well be judged by how well they have accomplished these objectives. Such an assessment could only teach profound respect for the wisdom and insight of our Founding Fathers.

Finally, the bicentennial offers the opportunity for the American people to rededicate themselves to the common principles that have formed the basis for our national strength and prosperity.

Former President Ford succinctly stated this principle:

> We must as a nation seize opportunities to rededicate ourselves to the principles that have made us the world's longest-lived democracy." (98th Congress, hearing, supra.)

Similarly, Gen. William C. Westmoreland stated:

> As we begin the third century of the United States of America, the American people should renew their knowledge about our heritage and should rededicate themselves to the maintenance of a republic under the Constitution. (97th Congress, hearing, supra.)

The Constitution, paradoxically, grows and becomes more effective over time not through a process of change and evolution, but instead through a process of study and application of its unchanging principles. The growth and effectiveness of the Constitution is most evident in the dedication of Americans to its changeless tenets. Chairman Orrin Hatch of the Constitution Subcommittee, author of S. 118, capsulized this concept:

> The Constitution has proved durable—not because it is an evolving or flexible document but because it addressed principles that were enduring and because it created institutions that were in accord with the realities of man's existence. (97th Congress, hearing, supra.)

This time of rededication will, in a sense, strengthen the Constitution and its ability to perpetuate our system of ordered liberty. As emphasized by Betty Southard Murphy for the American Bar Association:

> No society can remain free unless its citizens understand the need for freedom, the cause of freedom, and the document under which freedom is guaranteed." (98th Congress, hearing, supra.)

Each of these purposes for a commemoration of the Constitution and a comprehension that "the maintenance of the common principles that animate our republic depend upon a knowledge and understanding of their roots and origins" were eloquently summarized by Senator Charles McC. Mathias, a sponsor of S. 118:

> [The Founding Fathers] were able to distill their knowledge of the history of mankind in a way that resulted in the provisions of the Constitution. They had obviously read Herodotus. . . . They had read the "Spirit of Laws" by Montesquieu. They knew Locke; they knew all of the great authors of both political theory and historical fact.
>
> It is as the result of their knowledge and their preparation that we have a Constitution. It is, as the chairman [Hatch] said, a great Constitution; but it . . . has to be implemented day by day by the men and women of the United States of America . . .
>
> We cannot implement the Constitution in the spirit in which it was written unless our knowledge of it is as intimate as the knowledge of the members of the Constitutional Convention. . . .

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> Issues present themselves which demand resolution against the framework of the Constitution. We will be inadequate to the job of resolving those issues unless we know as much about the Constitution as the delegates to the Convention who wrote it.
>
> Therefore, . . . it is vital that we stimulate interest . . . in its origins and antecedents and its spirit. (97th Congress, hearing, supra.)

Thus, education, evaluation, and rededication are essential to focus America's attention on the legacy they inherited from those who lived two hundred years ago and on their responsibility to protect it for those who will live two hundred years in the future.

Need for Federal involvement and purpose of bill

The hearings held by the Constitution Subcommittee devoted considerable attention to the question of the role to be played by the Federal Government in the bicentennial commemoration. Although conclusions about the degree of Federal involvement varied, all witnesses and Senators on the committee agreed that, in the words of Mr. Ronald Hoffman, symposia director, U.S. Capitol Historical Society, "it is, after all, the anniversary of the founding of the National Government that we are celebrating in the bicentennial of the Constitution." (97th Congress, hearing, supra.) Therefore, the Federal Government should play at least some role in the commemoration of its own birth.

Former President Gerald R. Ford discussed the role of the Federal Government in this commemoration:

> I have just a few suggestions as you consider the form of commemoration activities. I urge you to act expeditiously to draw together experts from a wide cross-section of disciplines to form a commemoration commission. The considerable task of coordinating an enterprise to reach all America will need to be underway several years in advance of the 1987–89 time period. I commend the Senate bill which you have all supported for contemplating an appropriate balance between immediate goals of ceremony and celebration and lasting goals of education and scholarship. Although budget constraints do not permit the allocation of a great amount of Federal funds, I sense that you could justifiably rely upon private contributions to finance much of the work of the Commission. Finally, I would encourage you to give each of the branches of government created by the Constitution a role in the commission." (98th Congress, hearing, supra.)

Federal involvement is also necessary for several practical reasons. Because no enterprise is likely to reach its objectives without adequate planning, the essential goals of this commemoration depend on coordination and planning that will probably only be undertaken by a Federal body. Private and state authorities should not be responsible to undertake a project to coordinate the commemoration of the birth of the Federal Government, but will undoubtedly look to the Government itself to undertake the task. With all private and state entities deferring to the Federal Government, advance planning is likely to be post-

poned until too late. Already we are only 4 years away from the commemorative date for the Constitution and only 2 years away from the anniversary of the Mount Vernon Commercial Conference that was an important step toward the monumental meeting of the Constitutional Convention in Philadelphia, May 25, 1787. If planning and coordination is to be undertaken in a timely fashion, the Federal Government will need to inaugurate the process.

A Federal presence in the commemoration effort is also necessary to attract funding from private corporations and foundations. In the absence of a demonstration of interest by the Federal Government, private sources of funding may not be easily persuaded of the importance of supporting this commemoration as they so generously backed the bicentennial of the Declaration of Independence.

Perhaps the most important reason for Federal involvement, however, was best stated by Gen. William Westmoreland:

> The Federal Government must be involved so that all the people throughout this Nation—from the people in Lexington and Concord, Mass., where the revolution began to the modern-day pioneers on the frontiers of Alaska; from the descendants of the Jamestown settlers to the Vietnamese boat people; from the citizens of northeastern Maine to the residents of Niihua Island in Hawaii—realize the great heritage of democracy and personal freedom formulated by the Constitutional Convention in 1787 and protected and strengthened by following generations.
>
> Only when there is a national focus can there be a genuine general commemoration or rededication at the 200th anniversaries of the fundamental documents which have formed and maintained our democratic Government. (97th Congress, hearing, supra.)

If this is to be a successful national celebration of all the people, then the only entity which expresses the will of all of the people of the United States must acknowledge the anniversary of the document which has guaranteed the liberties of all those people.

Accordingly, after months of contemplating the appropriate degree of Federal commitment to this objective, the Constitution Subcommittee and the full Judiciary Committee approved S. 118 to establish a commission to coordinate the commemoration of the bicentennial of the Constitution. This bill contemplates a modest role for the Federal Commission of encouraging and coordinating commemoration activities.

S. 118 further contemplates a commemoration consisting of more enduring activities than a series of pyrotechnic displays and parades. While celebrative activities are important to rekindle our national pride in the Constitution, a national reexamination of our nation's common principles and their embodiment in the language of the Constitution is perhaps more important.

S. 118 is true to the Constitution's enlightened principle of federalism by recognizing a pivotal role for the States. The Federal Bicentennial Commission, under the plan envisioned in S. 118, will play an important role as a coordinator, but will only undertake a "limited number" of worthy projects. States, on the other hand, should perceive

no limits on the activities within the will of their citizens. The Federal Commission should encourage such State activities.

S. 118 is also true to the Constitution's principle of limited national government in that it recognizes a leading role for the private sector. Private organizations throughout the nation and in every community will perhaps carry the greatest weight in making this commemoration significant. The Federal Commission should encourage such private activities to make the Constitution's message meaningful in each of America's communities and homes.

S. 118 is also true to the Constitution's respect for a diversity of thought and expression. The Federal Commission created by S. 118 will not espouse any single, narrow view of what is most important about the Constitution or its historical development. The Federal Commission's focus should be the men and events of 1787 not controversial interpretations of 1987; the Federalist Papers and the ratification debates in the States, not the textbooks of modern law schools; the substantive provisions of our Nation's foundational document, not the proposed legislative agenda of any single party or group.

One final observation argues strongly for creation of a commission to commemorate the bicentennial of the U.S. Constitution. This point calls to mind the Declaration of Independence and the celebration of its bicentennial 6 years ago. The culminating moment of that celebration came on July 4, 1976, when we as a nation paused to rejoice and reflect upon the document that enunciated the intent of the American people to be free. We are all familiar with the aspirational language of that document:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness.

With this elevating affirmation of purpose, the former colonies of Britain in the new world embarked on a course that would produce the United States of America. A war, a loosely bound confederation of sovereign States, and 11 difficult years came between the aspirations of the Declaration and the contract between the people and the States to carry out its noble objectives.

These two documents, the Declaration and the Constitution, launched the free peoples of America upon a course of self-government—a course we have learned its fraught with responsibilities and obligations as well as opportunities and liberties. In the words of Abraham Lincoln:

> All this is not the result of an accident. It has a philosophical cause. Without the Constitution and the Union, we could not have attained the result; but even these, are not the primary cause of our great prosperity. There is something back of these, entwining itself more closely about the human heart. That something, is the principle of "Liberty to all"—the principle that clears the path for all—gives hope to all—and, by consequence, enterprise and industry to all.
>
> The expression of that principle, in our Declaration of Independence, was most happy and fortunate.
>
> ("Fragment on the Constitution," Lincoln, A., quoted "The Living Constitution," Padover, Saul, p. 65.)

As Lincoln realized, the Declaration expressed the goal, the motivating philosophy; the Constitution created the structure to "attain the result." In one sense, the Declaration was the "end," the Constitution the "means" of the American experiment in self-rule.

This brief discussion of the interrelationship between these two documents is relevant to S. 118 because the United States has already committed vast resources to commemorating the inauguration of our independence with the signing of the "ends" document. Soon the bicentennial of the signing of the "means" document will be upon us. S. 118 does not ask for vast resources, but it does ask the Federal Government to recognize what Prime Minister William Gladstone of Britain, on the occasion of the Constitution's centennial, called:

> . . . the most remarkable work known to me in modern times to have been produced by the human intellect.

II. HISTORY OF COMMITTEE ACTION

97th Congress

A hearing was held before the Subcommittee on the Constitution of the Committee on the Judiciary on September 17, 1981, Senator Hatch (chairman of the subcommittee) presiding. September 17, 1981 marked the 194th anniversary of the completion of the work of the Constitution Convention. Witnesses that testified at the hearing:

1. Hon. Charles McC Mathias, Jr., a U.S. Senator from the State of Maryland.
2. Richard B. Morris, cochairman, Project '87, American Historical Association, and professor of history emeritus, Columbia University.
3. Gen. William C. Westmoreland, representing the Bicentennial Council of the Thirteen Original States Fund, Inc., accompanied by Dr. Robert Higgins, executive director.
4. Marna S. Tucker, representing the American Bar Association, Society.
5. Ronald Hoffman, symposia director, U.S. Capitol Historical Society, and professor of history, University of Maryland.
6. Boris Feinman, founder and chairman, Convention II.

After deliberating upon and considering the testimony of witnesses at the September 17 hearing, Chairman Hatch and the other members of the Constitution Subcommittee (Senator Thurmond, Chairman of the Senate Judiciary Committee, Senator Grassley, Senator DeConcini, Ranking Minority Member of the Constitution Subcommittee, and Senator Leahy) were joined by their colleague on the Judiciary Committee, Senator Mathias, in introduction of S. 2671 on June 23, 1982.

On July 16, 1982, Chairman Hatch informed Chairman Thurmond of the Senate Judiciary Committee that the Constitution Subcommittee had unanimously approved S. 2671 without amendment by a poll. Each of the members of the subcommittee had further reviewed the bill he had cosponsored and signed a document consenting to have the bill approved by poll and voting affirmatively.

On August 4, 1982, the Judiciary Committee approved S. 2671, with a single amendment, by voice vote. The amendment, proposed by Senator Mathias and cosponsored by Senator Hatch, amended section 7 of the bill to change the termination date for the Commission on the Bicentennial of the United States Constitution from September 30, 1988, to December 31, 1989.

On August 20, 1982, S. 2671 was reported to the Senate by Mr. Thurmond with an amendment. On October 1, 1982, S. 2671 was passed by the Senate after agreeing to Committee amendments en bloc.

98th Congress

Chairman Hatch and the other members of the Constitution Subcommittee (Senator Thurmond, chairman of the Senate Judiciary Committee, Senator DeConcini, ranking minority member of the Constitution Subcommittee, and Senator Leahy) were joined by their colleagues on the Judiciary Committee, Senator Mathias, Senator Kennedy, Senator Baucus, and Senator Laxalt in introduction of S. 118 on January 26, 1983.

A hearing was held before the Subcommittee on the Constitution of the Committee on the Judiciary on March 1, 1983. Senator Hatch (chairman of the subcommittee) presided. This hearing was an event of historical significance. All three branches of our Government were present to discuss a policy for our nation. It was fitting that the event which brought former President Gerald R. Ford together with Chief Judge Howard Markey before members of the Senate was the approaching anniversary of the creation of the various branches of Government. It was at a time when just over 200 years earlier the articles of confederation were ratified. Witnesses that testified at the hearing:

1. The Honorable Gerald R. Ford, former President of the United States of America.
2. Mrs. Betty Murphy of the American Bar Association.
3. Chief Judge Howard T. Markey, U.S. Court of Appeals for the Federal Circuit.
4. Dr. Richard B. Morris, former president, American Historical Association.
5. Mr. Paul Dembling, president of the Federal Bar Association.

On March 24, 1983, S. 118 was marked-up in a subcommittee hearing. Three amendments were accepted by the subcommittee:

1. On page 4, line 25, strike "in appropriation Act," and add the following: "or are donated pursuant to subsection (g) of this title."

This amendment offered by Senator Hatch clarifies that the Commission may use donated funds to procure supplies, services and to make contracts. This is clearly stated in subsection (g) of section 5: "The Commission is authorized to accept, use, solicit, and dispose of donations of money, property, or personal services." This resolves any conflict between page 4 and section 5 of S. 118.

2. On page 2, line 20, strike "fifteen" and insert in lieu thereof "thirteen".

On page 2, line 21, strike "four" and insert in lieu thereof "three".

On page 2, line 23, strike "four" and insert in lieu thereof "three".

On page 3, line 5, strike the (2) the Chief Justice of the United States insert:

> (2) the Chief Justice of the United States; (3) the chairman of the Committee on the Judiciary of the House of Representatives; and (4) the chairman of the Committee on the Judiciary of the Senate.

The amendments on pages 2 and 3 clarify that the chairman of the Judiciary Committees in the House and the Senate are to serve on the

Commission. Thus, the Commission's 16 members are as follows: three appointed on the recommendation of the House, three appointed on the recommendation of the Senate, three appointed on the recommendation of the Chief Justice, four appointed solely by the President, the two chairmen and the Chief Justice.

On page 7 line 13 strike "and".

On page 7 line 15, strike the period and insert "; and".

On page 7, following line 15 insert the following new paragraph:

> (10) the significance of the principles and institutions of the Constitution to other Nations and their citizens."

This amendment offered by Chairman Thurmond stresses that this Bicentennial celebration emphasizes the significance which the Constitution does and has given to other nations and their citizens.

After approving these amendments, the Constitution Subcommittee unanimously approved S. 118. On April 12, 1983, the Judiciary Committee approved S. 118 as amended by voice vote.

III. BRIEF HISTORICAL SKETCH

The roots of the U.S. Constitution stretch back centuries: at least as far as the Magna Carta.

Though historical records are fragmented, it is evident that the early Anglo-Saxons who inhabited the British Isles claimed the right to be governed by written law. Theirs is a history filled with struggles against magistrates and Kings who from time to time seemed to usurp unreasonable authority from the people. During one of these disputes in 1215 A.D., feudal barons managed to force a great charter of rights, the Magna Carta, upon a reluctant King. This early document, which later formed the basis for English common law as well as providing ideas and phrases for the American Constitution, declared as "law of the land," fundamental, individual rights to liberty. Using the principles spelled out in the Magna Carta as a precedent, over a period of six centuries the Anglo-Saxon concepts of freedom were eventually extended to all English subjects. Two acts of Parliament, the Petition of Right of 1628 and the Habeas Corpus Act of 1679, for instance, quoted directly from charter in order to justify the validity of their legislation:

> [N]o freemen shall be . . . imprisoned or [dispossessed] . . . except by the lawful judgment of his peers [and] by the law of the land.

Among the other principles enumerated in the Magna Carta were the rights to assembly, representative government, petition of the government for grievances, bearing arms, trial by jury, religious freedom, and freedom of speech.

The English Bill of Rights, adopted by Parliament in 1688, provided even stronger and more specific guaranties against tyranny. In effect, it ratified many of the principles set forth in the Magna Carta, reasserting that the King, like his subjects, was bound to follow the law. No longer could the Crown arbitrarily dispense with the law in certain cases or suspend laws without Parliament's consent. Only Parliament, as a representative body of the people, could authorize

new taxes for the maintenance of a peacetime army. The English Bill of Rights, however, notably excluded guaranteed liberties for the common man. Instead, it enumerated the rights and privileges of the nobility and gentry, vis a vis the Crown.

The preservation of the status quo caused even larger groups of English "commoners" to seek out freedom within the colonies of America. Although many left England embued with a love for written and binding constitutions, they were determined to remake their lives according to Constitutional principles that would also protect the common man. Jamestown, the first permanent British settlement in North America, established the first representative government on the continent in 1619. Meanwhile, in 1620, the Pilgrims, led by William Bradford, landed at Plymouth with a form of government already drawn up, known as the Mayflower Compact, and conceived for "just and equal laws." Nearly 170 years later, the Compact was a source of inspiration to the Framers of the U.S. Constitution.

As even larger numbers of immigrants journeyed to the American continent, experience with self-rule diversified.

The Constitution that would be framed during the summer of 1787 did not spring out of whole cloth, but was the product of nearly two centuries of colonial experimentation with self-government.

Virginia, Pennsylvania, and Massachusetts provide examples of continued refinements in colonial government before the Federal constitution. In Virginia, as already noted, elected representatives first met in a General Assembly in 1619 along with the governor and his council. The ordinance which authorized this new government ordered that "the forms of the law, customs and manner of trial, and the administration of justice used in the realm of England as near as may be" should be organized. Modeled after the laws of England as revised since the Magna Carta, Virginia established the first written constitution in the American Colonies. This Virginia document created a general assembly patterned after the English Parliament, which functioned until the revolution initiating such legislation as land reform and taxation while remaining accountable to the people by way of the election process. As the verbal conflict between England and the Colonies intensified, the general assembly in Virginia began to call for more definitive protections of their "inalienable rights". Following the outbreak of hostilities, former members of the assembly such as George Mason, Patrick Henry, and James Madison, met in 1776 to draft a State document with constitutional guarantees that later served as a model for other states. A "Declaration" or "Bill" of rights served as preamble to the new Virginia Constitution and included fundamental liberties that dated back to the Magna Carta as well as others made necessary by English colonial domination. Moderate bail and humane punishment; timely trials by jury, militias rather than standing armies, and freedom of conscience were derived from the Magna Carta while freedom of the press, free elections, majority rule, and other protections grew out of the colonial experience under English rule. These rights, of course, were later incorporated into the Federal Constitution.

In 1682, the colony of Pennsylvania was founded by Quaker William Penn as a "holy experiment." He attracted large numbers of colonists with his promise of religious freedom, liberal government and inex-

pensive land. Penn himself provided Pennsylvania with its first constitution—the Frame of Government—which was revised and approved by the newly established legislature in 1683. The constitution provided for a bicameral legislature made up of a provincial council and a general assembly. Laws initiated by the appointed members of the provincial council were subject to veto by the elected members of the assembly. In 1701, during Penn's last visit to Pennsylvania, he instituted a new constitution, known as the charter of Privileges, which granted the chief lawmaking responsibility to the assembly. By the time of his death in 1718, Penn had succeeded in establishing a harmonious, democratic society in which almost complete religious freedom reigned. In 1778, Pennsylvania sought to draw up a constitution which adhered even more closely to democratic ideals. Led by George Byran, Thomas Young, and Benjamin Franklin, the framers abolished the provincial council as well as the property requirement for voting and officeholding.

Thus the experience of Pennsylvania greatly influenced the framers of the Federal Constitution. The early Pennsylvania system provided a model of religious freedom and majority rule as well as a system of separation of powers and checks and balances.

In Massachusetts, of course, colonial inspiration for the Federal Constitution originated with the Mayflower Compact. The Pilgrim philosophy of self-government by "the body Politick" likewise extended to the Massachusetts Bay colony who, in 1634, instituted a bicameral legislature to initiate and pass laws with the lower house elected by the people and granted the bulk of legislative authority. Twelve years later, the General Court of Massachusetts submitted its governmental charter to the English Parliament, explaining that "for our Government itself, it is framed according to our charter, and the fundamental and common laws of England, and conceived according to the same."

Shortly after the "shot heard around the world" in Lexington, Mass., the colonial legislature deposed its British governor and transformed itself into a "provincial congress" concerned mainly with raising, equipping, and directing the Revolutionary militia. At the same time, however, this Congress formulated a state constitution which was submitted to the people. Because of its poor wording, the voters rejected it overwhelmingly. The Massachusetts Congress then devised another plan whereby they asked the people if they wanted a constitutional convention. In their town meetings, the voters agreed and elected representatives to draft a new constitution which was then returned to the people for discussion and a vote, the convention was empowered to ratify it by a two-thirds majority, which they did.

This deliberate ratifying process lasted more than 5 years and served as a procedures model for the national delegates meeting at Philadelphia in 1787. The concept of a constitutional convention, a written constitution, and popular ratification brought civility to the Revolution.

The spark which fostered cooperation between the separate colonies and eventually culminated in the Declaration of Independence did not, at first, come from a general discontent with the mother country. Indeed, the original impetus for intercolonial cooperation was almost exclusively derived from the need for a common defense. Both Indians

and foreign powers posed a threat from the west as well as from the north and south. Troops, monies, and supplies had to be raised in a joint effort to protect all 13 English colonies. In addition, although the British regulated intercolonial commerce and exercised total control over intercolonial and foreign affairs, the colonists, bound by a common language and heritage, felt the need to promote interests which crossed colonial borders.

The first example of such cooperation occurred in 1643 with the union of Massachusetts Bay, Plymouth, Connecticut, and New Haven into the New England Confederation. Their united charter called for a firm and perpetual league of friendship and amity for offense and defense, mutual advice and succor, upon all just occasions, both for preserving and propagating the truth and liberties of the gospel and for their own mutual safety and welfare.

A few years later, Virginia, New York, and the New England colonies made a similar treaty of mutual protection, friendship, and commerce. Virginia militiamen also came to the aid of the Carolinas on frequent occasions to assist against Indian attack.

By 1754, only 2 years before the start of the French and Indian War, many colonists seemed to sense the need for a permanent, federation which could provide for common protection. As a result, the British allowed an intercolonial conference to be held in Albany, N.Y. for the purpose of bringing the colonies under "articles of union and confederation with each other for mutual defense of his majesty's subjects and interests in North America in time of peace as well as war." Although the delegates, led by Benjamin Franklin, unanimously concluded that confederation was "absolutely necessary for their security and defense", neither the British government nor the colonies actually enforced the "Albany Plan" provisions. Nonetheless, the plan provided for a workable, democratic form of intercolonial government that perhaps frightened the British leaders who had originally sanctioned the conference. The plan called for a general council of 48 members elected by the assemblies of the various colonies. The number of representatives from each state would be determined according to population and wealth. The legislature had authority to levy taxes "as appear equal and just" to support a militia, facilitate commerce, and effectively run the government. The president of the united American colonies would be appointed by the Crown.

As British rule in colonial America became more oppressive, the Colonies also began to unite spontaneously in their opposition to the Crown. Though passive at first, resistance eventually became more widespread and interspersed with violence. Even before the end of the French and Indian War, two court cases demonstrated just how far apart the colonists and the Crown were in their interpretation of the British constitution. The first was the 1761 Writs of Assistance Case in which James Otis nearly convinced the Superior Court of Massachusetts that a general search warrant without an expiration date was unconstitutional. After the court upheld the search authority, however, the messengers of the King were effectively prevented from carrying out their search orders because of mob intimidation. The second event was the 1763 Parson's case in which Otis and Patrick Henry managed to persuade a Virginia court that both parliamentary and royal authority could at times be declared null and void on con-

stitutional grounds. Both of these cases illustrated the increasingly incompatible philosophies of the American and English leadership with regard to individual rights and the constitution.

After the French and Indian War, Parliament began to impose a series of taxes on the colonies in order to support the large contingency of British forces stationed in America. The colonists, who already objected to quartering British troops in their homes, rose up in open rebellion against "taxation without representation". A complete British crackdown on individual liberty and free trade in retaliation for the famous "Boston Tea Party" of 1773 galvanized colonial determination to free themselves from "foreign" domination. In 1774, the first Continental Congress met in Philadelphia to decide the fate of the colonies. At first, cooler heads prevailed and the Congress merely issued a statement that colonial opposition to recent acts of Parliament was necessary in order to preserve the spirit of the British Constitution. Following the clash of British troops with colonial militiamen in Lexington and Concord, however, Congress called on the militias in each colony to prepare for the possibility of war. At the second Continental Congress in June of 1775, George Washington was commissioned as Commander in Chief of the Continental Army.

As the war began in earnest, the great majority of the colonists seemed to favor independence. The Congress, on July 2, 1776, ratified the will of the people. Thomas Jefferson was thereby assigned the task of writing a Declaration of Independence which would outline the objectives of the new republic and later be implemented into an American Constitution. Two days later, on July 4, 56 of the 58 members of Congress pledged their "lives, . . . fortunes . . . and sacred honor" to the ennobling principles of that great document, the aspirational language of which we are all familiar:

> We hold these truths to be self-evident that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

The Declaration decried the abuse which the British Crown had inflicted and further declared:

> Whenever any form of government becomes destructive to these ends, it is the right of the people to alter or abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.

With this elevating affirmation of purpose, the former colonies of Britain in the New World embarked on a course that would produce the United States of America. The Declaration set forth the aspirations of the American people to establish a government of liberty. At the time, those two words, "government" and "liberty" were mutually exclusive. The world knew powerful central governments which required citizens, or more accurately, subjects, to give all fealty to a sovereign leader or group of leaders. The struggle to find a form of government that protected, rather than abridged, liberty really began in 1776. Thus, the American Constitution would later become the "means" for carrying out the "ideal" capsulized in the Declaration.

The Articles of Confederation, ratified in 1781, merely legalized the powers that Congress had exercised since before 1775. Soon after its approval, weaknesses in the Articles of Confederation became apparent. For example, revenue, even for national defense, was not forthcoming. Congress under the Articles of Confederation lacked authority to levy taxes. It could request contributions by the States to help with the common debt, but in no way could compel contribution. Another weakness was the "liberum veto" which each State possessed in relation to any legislation. Furthermore, Congress lacked authority to secure compliance with its laws and, therefore, found it difficult to negotiate with foreign powers. Disputes between States were prevalent due to the Congress' lack of authority to regulate foreign or interstate commerce.

Such a dispute over interstate commerce led to what has become known as the Mount Vernon conference in March of 1785. Maryland and Virginia, in dispute over the waterways of the Potomac River, formed a commission to establish regulations that would be advantageous to both States. Gen. George Washington invited the Commissioners to meet at Mount Vernon. While at this conference the Commissioners drafted a proposition for a future convention of all the States "to take into consideration the trade and commerce" of the confederation. This proposal of a trade convention was well accepted by the various States. Nine States appointed commissioners to the convention. Annapolis was designated as the place and the first Monday in September 1786 as the time. Attendance at the convention turned out to be disappointing. Only five States—Virginia, Pennsylvania, Delaware, New Jersey, and New York—were represented with no commissioners present from Massachusetts, New Hampshire, North Carolina, or Rhode Island.

Despite the poor attendance, the delegates met and, after an exchange of views, drafted a report to be submitted to the various States carrying a suggestion that a convention of representatives from all the states meet at Philadelphia on the second Monday in May of 1787 to review the problems in the existing government and formulated "a plan for supplying such defects as may be discovered."

New York and other states were reluctant to attend, fearing such a convention would be extra-legal without Congress' consent. After some hesitation Congress approved the Philadelphia convention with specific limitations:

> For the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall when agreed to in Congress and confirmed by the States render the Federal Constitution adequate to the exigencies of Government and preservation of the Union.

Twelve States accepted the invitation of Congress and sent delegates to Philadelphia for the express purpose of "revising the Articles of Confederation." Although Rhode Island refused the invitation to appoint delegates to the Convention, a committee representing significant interests within the State sent a letter to the Convention promising to support its work.

Sixty-two delegates were appointed; 55 attended some of the sessions of the convention; 39 put their names to the Constitution when completed. Most of the work was accomplished by 30 of the members.

Neither the Annapolis conference nor the invitation of Congress had specified any particular procedure by which the delegates should be chosen. Since appointment by the State legislature was the method generally employed in selecting representatives in Congress, it was adopted, in every State, as the means by which the delegates to the convention were chosen.

Several men of notable influence who were chosen declined the invitation based on their suspicion that far more than a revision of the articles was planned in Philadelphia. For example, the venerable Patrick Henry declined to attend because he "smelt a rat."

Among the delegates were men with wide experience in government and business. Half of them were lawyers or government officials trained in law. More than two-thirds had served in the Continental Congress. Some were Governors. Many were highly educated and were scholars. Half of them were college graduates. The average age was 42, the oldest, Benjamin Franklin, being 81, and the youngest, Jonathan Kayton, 27. Eight of them had signed the Declaration of Independence 11 years before. Their viewpoints ranged all the way from the tough conservatism of Alexander Hamilton, who thought that the best government was an aristocracy, to the warm democracy of James Wilson, who was dedicated to the idea of government by the people. But in spite of the immense diversity of outlook, the delegates shared a common American culture, a common language, and a common respect for the law against the whims of personal tyranny. Above all, most of them shared the great 8th Century belief in reason and regard for the individual. As reasonable men they could argue vehemently for their particular points of view, and as cultured gentlemen they were bound to come to a working compromise.

The start of the Convention was delayed until May 25, nearly 2 weeks after the date set for its meeting, as a result of both bad weather and the tardiness of some of the delegates in arriving.

At the beginning of the Convention, George Washington was unanimously elected President after Benjamin Franklin, Washington's only competition, nominated him to the position. Several days later, the rules of procedure were adopted. In line with the existing procedure employed by the Congress of the Confederation, each State, it was decided, would have one vote. The greatest political cleavage that existed in both the country and the convention was between the large and small States over the most equitable means of apportioning representation in Congress, equally or on the basis of population size. In the actual convention the smaller States were given the advantage of an equal vote.

Seven States were needed to constitute a quorum. It was also decided to impose a rule of secrecy around the convention in hopes that outside influence and pressure would be minimized by barring knowledge of the precedings from the general public. This rule of confidentiality agreed to by the delegates at Philadelphia was strictly observed.

The official journal and other papers from the Convention were delivered to Washington just after the Convention and, in 1796, were deposited by him in the Department of State. Congress ordered these

to be published in 1818, at which time John Quincy Adams, then Secretary of State, undertook the task of editing the information for publication. The final product was published in 1819 under the title "Journal, Acts and Proceedings of the Convention." This work proved disappointing at best in yielding any actual insight into the dynamics of the Convention. James Madison, however, had also kept extensive and detailed notes of the Convention preceding. Although he was unwilling to have them published during his lifetime, Congress purchased the papers after his death in 1836. Madison's Convention notes were published in 1840.

Madison has often been called the "father of the Constitution" because of his work on the Virginia Plan, a series of resolutions which were presented to the Convention on May 29 by Edmund Randolph. From this plan, with many additions and compromises, evolved the Constitution as we know it. Madison's Virginia plan included provisions for the creation of a bicameral legislature in which the States would be represented in proportion to their population, a single executive chosen by the legislature, and a judiciary chosen by the upper House.

On May 30, the Convention went into a committee to consider the 15 propositions of the Virginia plan. On July 13, the Virginia resolutions were reported out of the committee. The smaller States were not content with their report. Patterson of New Jersey presented a new plan to amend the Articles of Confederation. At this point, heated debate ensued with a threat by the smaller States to withdraw. The convention was deadlocked over giving each State an equal vote in the upper House.

The problem was referred to a committee composed of one delegate from each State. On July 5 the committee submitted its report, which became the basis for what is known as the "great compromise." The report recommended that each State should have an equal vote in the upper House and that in the lower House representation would be dependent on population. Included in the compromise was the motion by Governeur Morris of Pennsylvania that direct taxation should be proportional to representation. With the adoption of this compromise the smaller States began to shift their position in favor of the new Constitution.

Debate on the Virginia resolutions continued. On July 24, a committee was formed to draft a constitution composed of the principles that had thus far been approved. This committee in preparing their draft turned to a host of existing materials including the Articles of Confederation, State constitutions, and other plans presented to delegates. Thus, the Constitution was not only the work of these men, but the product of accumulated experience of the colonies over hundreds of years of progress toward self-rule. The committee presented their work to the full convention who went over it paragraph by paragraph until they had developed the next draft of the Constitution.

On September 12 after the report had been revised by the "style committee," it was ordered printed. After 3 days of review and comparison with the proceedings of the Convention, the Constitution was ordered engrossed on September 15.

The Convention met on September 17 for its last session. Many of the delegates were not totally pleased, 39 of the 42 present subscribed

to the document. George Mason abstained because the document lacked a Bill of Rights. Benjamin Franklin's comment reflects well the general feeling that memorable day:

> . . . but I am not sure I shall never approve them. For having lived long, I have experienced many instances of being obliged by better information or fuller consideration, to change my opinions even on important subjects, which I once thought right, but found to be otherwise . . .
>
> In these sentiments, Sir, I agree to this Constitution with all its faults, if they are such; because I think a general government necessary for us . . . I doubt, too, whether any other convention we can obtain may be able to make a better Constitution. For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an assembly can perfect production be expected? It therefore astonishes me, Sir, to find this system approaching so near to perfection as it does; and I think it will astonish our enemies, who are waiting with confidence to hear that our councils are confounded like those of the Builders Babel; and that our states are on the point of separation, only to meet hereafter for the purpose of cutting one another's throats. Thus I consent, Sir, to this Constitution because I expect no better, and because I am not sure that it is not the best . . .
>
> On the whole, Sir, I cannot help expressing a wish that every member of the convention who may still have objections to it, would, with me, on this occasion abate a little of his own infallibility—and to make manifest our unanimity, put his name to this instrument.

Article VII of the new Constitution provided that 9 out of 13 States would be needed to ratify. Many of the larger States, especially New York and Virginia, seemed to be against the Constitution. A great debate pursued between the defenders and opponents of the Constitution. Much of this debate occurred in journals, with a series of 85 essays by Madison and Hamilton on the defense and Richard Henry Lee's "Letters from the Federal Framers to the Republican", on the attack.

On September 28, 1787, the Constitution was submitted to the people for their vote with this proclamation for the Congress:

> That the said report, with the resolution and letter accompanying the same, be transmitted to the several legislatures in order to be submitted to a convention of delegates chosen in each state by the people thereof, in conformity to the resolve of the convention made and provided in that case.

Most of the smaller States had no problem with ratification. On the other hand there was bitter debate in the larger States.

In Virginia, anti-federalists Patrick Henry, George Mason, Richard Henry Lee, and James Monroe, were pitted against James Madison, George Wythe, Edmond Randolph, and John Marshall. Hugh Williams along with Benjamin Franklin defended the document in Pennsylvania.

In Massachusetts Hancock and Adams gave no support while Elbrige Gerry was strongly opposed. Paul Revere in an attempt to persuade Samuel Adams in favor of the Constitution, gathered the mechanics in a meeting at the Green Dragon Tavern. In reporting the meeting to Adams, Revere persuaded Adams to alliance by citing the great numbers that attended the meeting. With Adams' endorsement Massachusetts ratified the Constitution.

In New York a great battle ensued. Hamilton, almost singlehandedly fought the great powers of New York, Governor Clinton, Yates, Lansing, and Smith. It was not until nine States had ratified and New York realized it would be cut off that it ratified.

Despite the debates and concern over the lack of a bill of rights the Constitution of the United States was finally ratified by the nine States needed in 1788 and soon after the other States followed suit, including Rhode Island which ratified last in 1790.

This briefly traces the history of the U.S. Constitution, the most remarkable piece of legislative work ever produced by man. The Constitution has served as a framework for the growth of a few small insignificant States into the greatest force for freedom in the world. If our citizenry are properly dedicated to its inspired principles, it should perpetuate the greatness of the American Republic for countless centuries for its virtues are all the virtues of a people free to govern themselves.

RATIFICATION DATES AND VOTES

State	Ratification date	Vote	
		Yes	No
Delaware	Dec. 7, 1787	[1]	
Pennsylvania	Dec. 12, 1787	46	23
New Jersey	Dec. 18, 1787	[1]	
Georgia	Jan. 2, 1788	[1]	
Connecticut	Jan. 9, 1788	128	40
Massachusetts	Feb. 6, 1788	187	168
Maryland	Apr. 26, 1788	63	11
South Carolina	May 23, 1788	149	73
New Hampshire	June 21, 1788	57	47
Virginia	June 25, 1788	89	79
New York	July 26, 1788	30	27
North Carolina	Nov. 21, 1789	195	77
Rhode Island	May 29, 1790	34	32

[1] Unanimous.

IV. THE FOUNDING FATHERS

Maj. William Pierce, a representative from Georgia at the Constitution Convention, provides some of the most insightful human character sketches of the delegates. These contemporary sketches of our Founding Fathers were found in a bound volume of memoirs and papers belonging to Pierce. These papers are referred to as "Pierce's Relics":

Pierce, William (c. 1740–1789):

> My own character I shall not attempt to draw, but leave those who may choose to speculate on it, to consider it in any light that their fancy or imagination may depict. I am conscious of having discharged my duty as a Soldier through the course of the late revolution with honor and propriety; and my services in Congress and the Convention were bestowed with the best intention towards the interest of Georgia, and towards the general welfare of the Confederacy. I possess

ambition, and it was that, and the flattering opinion which some of my Friends had of me, that gave me a seat in the wisest Council in the World, and furnished me with an opportunity of giving these short Sketches of the Characters who composed it.

Baldwin, Abraham (1754–1807):

Mr. Baldwin is a Gentleman of superior abilities, and joins in a public debate with great art and eloquence. Having laid the foundation of a compleat classical education at Harvard College, he pursues every other study with ease. He is well acquainted with Books and Characters, and has an accommodating turn of mind, which enables him to gain the confidence of Men, and to understand them. He is a practising Attorney in Georgia, and has been twice a Member of Congress. Mr. Baldwin is about 38 years of age. (He was actually thirty-three years old at the Philadelphia Convention.)

Bassett, Richard (1745–1815):

Mr. Bassett is a religious enthusiast, lately turned Methodist, and serves his Country because it is the will of the people that he should do so. He is a Man of plain sense, and has modesty enough to hold his Tongue. He is a Gentlemanly Man, and is in high estimation among the Methodists. Mr. Bassett is about 36 years old. (He was actually forty-two.)

Bedford, Gunning (1747–1812):

Mr. Bedford was educated for the Bar, and in his profession, I am told, has merit. He is a bold and nervous Speaker, and has a very commanding and striking manner;—but he is warm and impetuous in his temper, and precipitate in his judgment. Mr. Bedford is about 32 years old [he was actually forty], and very corpulant.

Blair, John (1732–1800):

Mr. Blair is one of the most respectable Men in Virginia. both on account of his Family as well as fortune. He is one of the Judges of the Supreme Court in Virginia, and acknowledged to have a very extensive knowledge of the Laws. Mr. Blair is, however, no Orator, but his good sense, and most excellent principles compensate for other deficiencies. He is about 50 years of age. (He was actually fifty-five.)

Blount, William (1744–1800):

Mr. Blount is a chaaracter strongly marked for integrity and honor. He has been twice a Member of Congress, and in that office discharged his duty with ability and faithfulness. He is no Speaker, nor does he possess any of those talents that make Men shine;—he is plain, honest, and sincere. Mr. Blount is about 36 years of age. (He was actually forty-three.)

Brearly, David (1745–1790):

Mr. Brearly is a man of good, rather than of brilliant parts. He is a Judge of the Supreme Court of New Jersey and is very much in the esteem of the people. As an Orator he has little to boast of, but as a Man he has every virtue to recommend him. Mr. Brearly is about 40 years of age. (Actually he was forty-two.)

Broom, Jacob (1752–1810):

Mr. Broom is a plain good Man, with some abilities, but nothing to render him conspicuous. He is silent in public, but cheerful and conversable in private. He is about 35 years old.

Butler, Pierce (1744–1822):

Mr. Butler is a character much respected for the many excellent virtues which he possesses. But as a politician or an Orator, he has no pretentions to either. He is a Gentleman of fortune, and takes rank among the first in South Carolina. He has been appointed to Congress, and is now a Member of the Legislature of South Carolina. Mr. Butler is about 30 years of age [he was forty-three]; an Irishman by birth.

Carroll, Daniel (1730–1796):

Mr. Carroll is a Man of large fortune, and influence in his State. He possesses plain good sense, and is in the full confidence of his Countrymen. This Gentleman is about 57 years of age.

Clymer, George (1739–1813):

Mr. Clymer is a Lawyer of some abilities;—he is a respectable Man, and much esteemed. Mr. Clymer is about 40 years old. (Actually he was forty-eight.)

Davie, William Richardson (1756–1820):

Mr. Davie is a Lawyer of some eminence in his State. He is said to have a good classical education, and is a Gentleman of considerable literary talents. He was silent in the Convention, but his opinion was always respected. Mr. Davie is about 30 years of age.

Dayton, Jonathan (1760–1824):

Capt. Dayton is a young Gentleman of talents, with an ambition to exert them. He possesses a good education and reading; he speaks well, and seems desirous of improving himself in Oratory. There is an impetuosity of his temper that is injurious to him; but there is an honest rectitude about him that makes a valuable Member of Society, and secures to him the esteem of all good Men. He is about 30 years old [actually he was twenty-seven, and the youngest member of the conventional], served with me as a Brother Aid to General Sullivan in the Western expedition of 1779.

Dickinson, John (1732–1808):

Mr. Dickinson has been famed through all America, for his Farmers Letters; he is a Scholar, and said to be a Man of very extensive information. When I saw him in the Convention I was induced to pay the greatest attention to him whenever he spoke. I had often heard that he was a great Orator, but I found him an indifferent Speaker. With an affected air of wisdom he labors to produce a trifle.—his language is irregular and incorrect,—his flourishes (for he sometimes attempts them), are like expiring flames, they just shew themselves and go out;—no traces of them are left on the mind to chear or animate it. He is, however, a good writer and will ever be considered one of the most important characters in the United States. He is about 55 years old, and was bred a Quaker.

Ellsworth, Oliver (1745–1807):

Mr. Ellsworth is a Judge of the Supreme Court in Connecticut;—he is a Gentleman of a clear, deep, and copious understanding; eloquent, and connected in public debate; and always attentive to his duty. He is very happy in a reply, and choice in selecting such parts of his adversary's arguments as he finds makes the strongest impressions,—in order to take off the force of them, so as to admit the power of his own. Mr. Ellsworth is about 37 years of age [actually he was forty-two], a Man much respected for his integrity, and venerated for his abilities.

Few, William (1748–1828):

Mr. Few possesses a strong natural Genius, and from application has acquired some knowledge of legal matters;—he practices at the bar of Georgia, and speaks tolerably well in the Legislature. He has been twice a Member of Congress, and served in that capacity with fidelity to his State, and honor to himself. Mr. Few is about 35 years of age. (Actually he was thirty-nine.)

Fitzsimmons, Thomas (1741–1811):

Mr. Fitzsimmons is a Merchant of considerable talents, and speaks very well I am told, in the Legislature of Pennsylvania. He is about 40 years old. (Actually he was forty-six.)

Franklin, Benjamin (1708–1790):

Dr. Franklin is well known to be the greatest philosopher of the present age;—all the operation of nature he seems to understand—the very heavens obey him, and the Clouds yield up their Lightning to be imprisoned in his rod. But what claim he has to the politician, posterity must determine. It is certain that he does not shine much in public Council—he is no Speaker, nor does he seem to let politics engage his attention. He is, however, a most extraordinary Man, and tells a story in a style more engaging than anything I ever heard. Let his Biographer finish his character. He is 82 years old, and possesses an activity of mind equal to a youth of 25 years of age.

Gerry, Elbridge (1744–1814):

Mr. Gerry's character is marked for integrity and perseverance. He is a hesitating and laborious speaker;—possesses a great degree of confidence and goes extensively into all subjects that he speaks on, without respect to elegance or flower of diction. He is connected and sometimes clear in his arguments, conceives well, and cherishes as his first virtue, a love for his Country. Mr. Gerry is very much of a Gentleman in his principles and manners;—he has been engaged in the mercantile line and is a Man of property. He is about 37 years of age. (Actually he was forty-three.)

Gilman, Nicholas (1755–1814):

Mr. Gilman is modest, gentle, and sensible. There is nothing brilliant or striking in his character, but there is something respectable and worthy in the Man—about 30 years of age. (Actually he was thirty-two.)

Gorham, Nathaniel (1738–1796):

Mr. Gorham is a Merchant in Boston, high in reputation, and much in the esteem of his Country-men. He is a Man of very good sense, but not much improved in his education. He is eloquent and easy in public debate, but has nothing fashionable or elegant in his style;—all he aims at is to convince, and where he fails it never is from his auditors not understanding him, for no Man is more perspicuous and full. He has been President of Congress, and three years a Member of that Body. Mr. Gorham is about 46 years of age (actually he was forty-nine), rather lusty, and has an agreeable and pleasing manner.

Hamilton, Alexander (1757–1804):

Colo. Hamilton is deservedly celebrated for his talents. He is a practitioner of the Law, and reputed to be a finished Scholar. To a clear and strong judgment he unites the ornaments of fancy, and whilst he is able, convincing, and engageing in his eloquence the Heart and Head sympathize in approving him. Yet there is something too feeble in his voice to be equal to the strains of oratory;—it is my opinion that he is rather a convincing Speaker, than a blazing Orator. Colo. Hamilton requires times to think—he enquires into every part of his subject with the searchings of philosophy, and when he comes forward he comes highly charged with interesting matter, there is no skimming over the surface of a subject with him, he must sink to the bottom to see what foundation it rests on.—His language is not always equal, sometimes didactic like Bolingbroke's and at others light and tripping like Stern's. His eloquence is not so defusive as to trifle with the senses, but he rambles just enough to strike and keep up the attention. He is about 33 years old (he was actually thirty), of small sature, and lean. His manners are tinctured with stiffness, and sometimes with a degree of vanity that is highly disagreeable.

Houston, William Churchill (c. 1746–1788):

Mr. Houston is an Attorney at Law, and has been a Member of Congress for the State of Georgia. He is a Gentleman of Family, and was educated in England. As to his legal or political knowledge he has very little to boast of. Nature seems to have done more for his corporeal than mental powers. His Person is striking, but his mind very little improved with useful or elegant knowledge. He has none of the talents requisite for the Orator, but in public debate is confused and irregular. Mr. Houston is about 30 years of age (he was actually forty-one), of an amiable and sewet temper, and of good and honorable principles.

Ingersoll, Jared (1749–1822):

Mr. Ingersol is a very able Attorney, and possesses a clear legal understanding. He is well educated in the Classic's, and is a Man of very extensive reading. Mr. Ingersol speaks well, and comprehends his subject fully. There is a modesty in his character that keeps him back. He is about 36 years old. (He was actually thirty-eight.)

Jenifer, Daniel of St. Thomas (1723–1790):

Mr. Jenifer is a Gentleman of fortune in Maryland;—he is always in good humour, and never fails to make his company pleased with him. He sits silent in the Senate, and seems to be conscious that he is no politician. From his long continuance in single life, no doubt but he has made the vow of celibacy. He speaks warmly of the Ladies notwithstanding. Mr. Jenifer is about 55 years of Age [he was actually sixty-four], and once served as an Aide de Camp to Major Genl. Lee.

Johnson, William Samuel (1727–1819):

Dr. Johnson is a character much celebrated for his legal knowledge; he is said to be one of the first classics in America, and certainly possesses a very strong and enlightened understanding.

As an Orator in my opinion, there is nothing in him that warrants the high reputation which he has for public speaking. There is something in the tone of his voice not pleasing to the Ear,—but he is eloquent and clear,—always abounding with information and instruction. He was once employed as an Agent for the State of Connecticut to state her claims to certain landed territory before the British House of Commons; this Office he discharged with so much dignity, and made such an ingenious display of his powers, that he laid the foundation of a reputation which will probably last much longer than his own life. Dr. Johnson is about sixty years of age, possesses the manners of a Gentleman, and engages the Hearts of Men by the sweetness of his temper, and that affectionate style of address with which he accosts his acquaintance.

King, Rufus (1775–1827):

Mr. King is a Man much distinguished for his eloquence and great parliamentary talents. He was educated in Massachusetts, and is said to have good classical as well as legal knowledge. He has served for three years in the Congress of the United States with great and deserved applause, and is at this time high in the confidence and approbation of his Country-men. This Gentleman is about thirty-three years of age, about five feet ten inches high, well formed, an handsome face, with a strong expressive Eye, and a sweet high toned voice. In his public speaking there is something peculiarly strong and rich in his expression, clear and convincing in his arguments, rapid and irresistible at times in his eloquence but he is not always equal. His action is natural, swimming, and graceful, but there is a rudeness of manner sometimes accompanying it. But take him *tout en semble*, he may with propriety be ranked among the Luminaries of the present Age.

Langdon, John (1741–1819):

Mr. Langdon is a Man of considerable fortune, possesses a liberal mind, and a good plain understanding—about 40 years old. (He was actually forty-six.)

Lansing, John (1754–1829):

Mr. Lansing is a practising Attorney at Albany, and Mayor of that Corporation. He has a hesitation in his speech, that will prevent his being an Orator of any eminence;—his legal knowledge I am told is not extensive, nor his education a good one. He is however a Man of good sense, plain in his manners, and sincere in his friendships. He is about 32 years of age.

Livingston, William (1723–1790):

Governor Livingston is confessedly a Man of first rate talents, but he appears to me rather to indulge a sportiveness of wit, than a strength of thinking. He is however equal to anything, from the extensiveness of his education and genius. His writings teem with satyr and a neatness of style. But he is no Orator, and seems little acquainted with the guiles of policy. He is about 60 years old [actually he was sixtly-four], and remarkably healthy.

Madison, James (1751–1836):

Mr. Maddison is a character who has long been in public life; and what is very remarkable every Person seems to acknowledge his greatness. He blends together the profound politician, with the Scholar. In the management of every great question he evidently took the lead in the Convention, and tho' he cannot be called an Orator, he is a most agreeable, eloquent, and convincing Speaker. From a spirit of industry and application which he possesses in a most eminent degree, he always comes forward the best informed Man of any point in debate. The affairs of the United States, he perhaps, has the most correct knowledge of, of any Man in the Union. He has been twice a Member of Congress, and was always thought one of the ablest Members that ever sat in that Council. Mr. Maddison is about 37 years of age, a Gentleman of great modesty,—with a remarkable sweet temper. He is easy and unreserved among acquaintance, and has a most agreeable style of conversation.

Martin, Alexander (1740–1807):

Mr. Martin was lately Governor of North Carolina, which office he filled with credit. He is a Man of sense, and undoubtedly is a good politician, but he is not formed to shine in public debate, being no Speaker. Mr. Martin was once a Colnel in the American Army, but proved unfit for the field. He is about 40 years of age. (Actually he was forty-seven.)

Martin, Luther (1748–1826):

Mr. Martin was educated for the Bar, and is Attorney general for the State of Maryland. This Gentleman possesses a good deal of information, but he has a very bad delivery, and so extremely prolix, that he never speaks without tiring the patience of all who hear him. He is about 34 years of age. (Actually he was thirty-nine.)

Mason, George (1725–1792):

Mr. Mason is a Gentleman of remarkable strong powers, and possesses clear and copious understanding. He is able and convincing in debate, steady and firm in his principles, and undoubtedly one of the best politicians in America. Mr. Mason is about 60 years old [actually he was sixty-two], with a fine strong constitution.

McClurg, James (*c.* 1746–1823):

Mr. McClurg is a learned physician, but having never appeared before in public life his character as a politician is not sufficiently known. He attempted once or twice to speak, but with no great success. It is certain that he has a foundation of learning, on which, if he pleases, he may erect a character of high renown. The Doctor is about 38 years of age [actually he was forty-one], a Gentleman of great respectability, and a fair and unblemished character.

McHenry, James (1753–1816):

Mr. McHenry was bred a physician, but he afterwards turned Soldier and acted as Aid to Genl. Washington and the Marquis de la Fayette. He is a Man of specious talents, with nothing of genious to improve them. As a politician there is nothing remarkable in him, nor has he any of the graces of the Orator. He is however, a very respectable young Gentleman, and he deserves the honor which his Country has bestowed on him. Mr. McHenry is about 32 years of age. (Actually he was thirty-four.)

Mifflin, Thomas (1744–1800):

General Mifflin is well known for the activity of his mind, and the brilliancy of his parts. He is well informed and a graceful Speaker. The General is about 40 years of age [actually he was forty-three], and a very handsome man.

Morris, Gouverneur (1752–1816):

Mr. Gouverneur Morris is one of those Genius's in whom every species of talents combine to render him conspicuous and flourishing in public debate:—He winds through all the mazes of rhetoric, and throws around him such a glare that he charms, captivates, and leads away the senses of all who hear him. With an infinite stretch of fancy he brings to view things when he is engaged in deep argumentation, that render all the labor of reasoning easy and pleassing. But with all these powers he is fickle and inconstant,—never pursuing one train of thinking—nor ever regular. He has gone through a very extensive course of reading, and is acquainted with all the sciences. No Man has more wit.—nor can any one engage the attention more than Mr. Morris. He was bred to the Law, but I am told he disliked the profession, and turned merchant. He is engaged in some great mercantile matters with his namesake Mr. Robt. Morris. This Gentleman is about 38 years old [actually he was thirty-five], he has been unfortunate in losing one of his Legs, and getting all the flesh taken off his right arm by a scald, when a youth.

Morris, Robert (1734–1806):

Robert Morris is a merchant of great eminence and wealth; an able Financier, and a worthy Patriot. He has an understanding equal to any public object, and possesses an energy of mind that few Men can boast of. Although he is not learned, yet he is as great as those who are. I am told that when he speaks in the Assembly of Pennsylvania, that he bears down all before him. What could have been his reason for not Speaking in the Convention I know not—but he never once spoke on any point. This Gentleman is about 50 years old. (Actually he was fifty-three.)

Paterson, William (1745–1806):

Mr. Patterson is one of those kind of Men whose powers break in upon you, and create wonder and astonishment. He is a Man of great modesty, with looks that bespeak talents of no great extent—but he is a Classic, a Lawyer, and an Orator;—and of a disposition so favorable to his advancement that every one seemed ready to exalt him with their praises. He is very happy in the choice of time and manner of engaging in a debate, and never speaks but when he understands his subject well. This Gentleman is about 34 years of age [actually he was forty-two], of a very low stature.

Pinckney, Charles (1757–1824):

Mr. Charles Pinckney is a young Gentleman of the most promising talents. He is, altho' only 24 ys of age [actually he was thirty, and the third youngest member of the Convention], in possession of a very great variety of knowledge. Government, Law, History and Phylosophy are his favorite studies, but he is intimately acquainted with every species of polite learning, and has a spirit of application and industry beyond most Men. He speaks with great neatness and perspicuity, and treats every subject as fully, without running into prolixity, as it requires. He has been a Member of Congress, and served in that Body with ability and eclat.

Pinckney, Charles Cotesworth (1746–1825):

Mr. Chs Cotesworth Pinckney is a Gentleman of Family and fortune in his own State. He has received the advantage of a liberal education, and possesses a very extensive degree of legal knowledge. When warm in a debate he sometimes speaks well,—but he is generally considered an indifferent Orator. Mr. Pinckney was an Officer of high rank in the American army, and served with great reputation through the War. He is now about 40 years of age.

Randolph, Edmund (1753–1813):

Mr. Randolph is Governor of Virginia,—a young Gentleman in whom unite all the accomplishments of the Scholar, and the States-man. He came forward with the postulata, or first principles, on which the Convention acted, and he supported them with a force of eloquence and reasoning that did him great honor. He has a most harmonious voice, a fine person and striking manner. Mr. Randolph is about 32 years of age. (Actually he was thirty-four.)

Read, George (1733–1798):

Mr. Read is a Lawyer and a Judge:—his legal abilities are said to be very great, but his powers of Oratory are fatiguing and tiresome to the last degree;—his voice is feeble, and his articulation so bad that few can have patience to attend to him. He is a very good Man, and bears an amiable character with those who know him. Mr. Read is about 50 [he was actually fifty-four], of a low stature, and a weak conconstitution.

Rutledge, John (1739–1800):

Mr. Rutledge is one of those characters who was highly mounted at the commencement of the late revolution;—his reputation in the first Congress gave him a distinguished rank among the American Worthies. He was bred to the Law, and now acts as one of the Chancellors of South Carolina. This Gentleman is much famed in his own State as an Orator, but in my opinion he is too rapid in his public speaking to be denominated an agreeable Orator. He is undoubtedly a man of abilities, and a Gentleman of distinction and fortune. Mr. Rutledge was once Governor of South Carolina. He is about 48 years of age.

Sherman, Roger (1721–1793):

Mr. Sherman exhibits the oddest shaped character I ever remember to have met with. He is awkward, un-meaning, and unaccountably strange in his manner. But in his train of thinking there is something regular, deep and comprehensive; yet the oddity of his address, the vulgarisms that accompany his public speaking, and that strange New England cant which runs through his public as well as his private speaking make everything that is connected with him grotesque and laughable:—and yet he deserves infinite praise—no Man has a better Heart or a clearer Head. If he cannot embellish he can furnish thoughts that are wise and useful. He is an able politician, and extremely artful in accomplishing any particular object;i—t is remarked that he seldom fails. I am told he sits on the Bench in Connecticut, and is very correct in the discharge of his Judicial functions. In the early part of his life he was a Shoe-maker;—but despising the lowness of his condition, he turned Almanack maker, and so progressed upwards to a Judge. He has been several years a Member of Congress, and discharged the duties of Office with honor and credit to himself, and advantage to the State he represented. He is about 60. (Actually he was sixty-six.)

Spaight, Richard Dobbs (1758–1802):

Mr. Spaight is a worthy Man, of some abilities, and fortune. Without possessing a Genius to render him brilliant, he is able to discharge any public trust that his Country may repose in him. He is about 31 years of age. (Actually he was twenty-nine, and hence the second youngest member of the convention.)

Strong, Caleb (1745–1819):

Mr. Strong is a lawyer of some eminence,—he has received a liberal education, and has good connections to recommend him. As a Speaker he is feeble, and without confidence. This Gentn. is about 35 years of age [actually he was forty-two], and greatly in the esteem of his Colleagues.

Washington, George (1732–1799):

Genl. Washington is well known as the Commander in chief of the late American Army. Having conducted these states to independence and peace, he now appears to assist in framing a Government to make the People happy. Like Gustavus Vasa, he may be said to be the deliverer of his Country;—like Peter the Great he appears as the politician and the States-man; like Cincinnatus he returned to his farm perfectly contented with being only a plain Citizen, after enjoying the highest honor of the Confederacy,—and now only seeks the approbation of his Country-men by being virtuous and useful. The General was conducted to the Chair as President of the Convention by the unanimous voice of its Members. He is in the 52d year of his age. (Actually he was fifty-five.)

Williamson, Hugh (1735–1819):

Mr. Williamson is a Gentleman of education and talents. He enters freely into public debate from his close attention to most subjects, but he is no Orator. There is a great degree of good humour and pleasantry in his character; and in his manners there is a strong trait of the Gentleman. He is about 48 years of age. (Actually he was fifty-two.)

Wilson, James (1742–1798):

Mr. Wilson ranks among the foremost in legal and political knowledge. He has joined to a fined genius all that can set him off and show him to advantage. He is well acquainted with Man, and understands all the passions that influence him. Government seems to have been his peculiar Study, all the political institutions of the World he knows in detail, and can trace the causes and effects of every revolution from the earliest stages of the Greecian commonwealth down to the present time. No man is more clear, copious, and comprehensive than Mr. Wilson, yet he is no great Orator. He draws the attention not by the charm of his eloquence, but by the force of his reasoning. He is about 45 years old.

Wythe, George (1726–1806):

Mr. Wythe is the famous Professor of Law at the University of William and Mary. He is confessedly one of the most learned legal Characters of the present age. From his close attention to the study of general learning he has acquired a complete knowledge of the dead languages and all the sciences. He is remarked for his exemplary life, and universally esteemed for his good principles. No Man it is said understands the history of Government better than Mr. Wythe,—nor any one who understands the fluctuating conditions to

which all societies are liable better than he does, yet from his too favorable opinion of Men, he is no great politician. He is a neat and pleasing Speaker, and a most correct and able Writer. Mr. Wythe is about 55 years of age. (Actually he was sixty-one.)

Yates, Robert (1724–1796):

Mr. Yates is said to be an able Judge. He is a Man of great legal abilities, but not distinguished as an Orator. Some of his Enemies say he is anti-federal Man, but I discovered no such disposition in him. He is about 45 years old [actually he was sixty-three], and enjoys a great share of health.

Another interesting contemporary view of the members of the Convention comes from the French Minister Otto. His sketches of these men are found in a report to the French Foreign Minister Montmorin in Paris, translated by Saul K. Padover in his book, "The Living U.S. Constitution":

Baldwin, Abraham:

Reasonable and well intentioned, but never had the occasion to distinguish himself. The Congress will enable him to do so by appointing him one of the Commissisoners to settle its debts to the States.

Dayton, Jonathan:

Little known, having no other merit than that of being the son of a good patriot and the benefactor of M. d'Anteroches, from which one may presume that he likes the French.

Dickinson, John:

Author of the Letters of a Pennsylvania Farmer; very rich; had been anti-English at the beginning of the Revolution, without however favoring independence, having actually voted against it publicly. He is old, feeble and without influence.

Ellsworth, Oliver:

Mr. Ellsworth, former member of Congress, is absolutely of the same outlook and disposition [as Benjamin Huntington, a friend of France]. The same may be said of Mr. [Roger] Sherman. In general, the men of that State [Connecticut] have a national outlook which is rarely found elsewhere on the continent. They show a greater republican simplicity; they are well off without being opulent. The rural economy and domestic industry have developed quite far in Connecticut; the people there are happy.

Few, William:

Without being a genius, he has more knowledge than his name and appearance would indicate. Although still young, he had been constantly employed during the war. His colleagues have a good opinion of him. He is very timid and awkward in society, unless one speaks to him about business.

Franklin, Benjamin:

Dr. Franklin, the present President of the State [Pennsylvania], is too well known to need deserved praising. He feels, more than any other American, that in order to be a true patriot it is necessary to be a friend of France. Unfortunately, this philosopher, who has known how to brave the lightning of heaven and of the English Parliament, will not long continue to fight against the infirmities of age. We must regret that immortality belongs only to his name and writings.

Gerry, Elbridge:

Mr. Elb. Gerry is a little man, very intriguing and full of small shrewdnesses, which have hitherto brought him sufficient success. Of all the members of the Congress, he has been active the longest. He has acquired a great knowledge of public affairs, which he uses to arouse esteem among his fellow-citizens. In 1972 he had delivered a pretty effective speech in the legislature at Boston against ratification of the Consular Convention. He pretends a great liking for Chevalier de La Luzerne, but one should be on guard against his fine claims. In general, we have very few friends among the powerful men of Massachusetts; our commerce does not interest them and our fisheries are in their way. . . . The people in general like the French, since they often saw our fleet and recall the services which we have rendered them.

Gilman, Nicholas:

A pretentious young man; little loved by his colleagues; one calls him mockingly *The Congress*. Still, he has the advantage of having represented his State [New Hampshire] at the Convention in Philadelphia and of having signed the new Constitution. . . .

Hamilton, Alexander:

Great orator, intrepid in public debate. Zealous and even extremist partisan of the new Constitution and declared enemy of Gov. Clinton. . . . He is one of these rare men who has distinguished himself equally on the field of battle and at the bar. He owes everything to his talents. . . . He has a bit too much affectation and too little prudence. . . . He is too impetuous and owing to a desire to lead everything, he fails of his goal. His eloquence is often out of place in public debates, where precision and clarity are preferred to brilliant imagination. It is believed that Mr. H. is the author of the pamphlet entitled *The Federalist*. Here again he has failed of his goal. That work is of no use to the educated, and it is too learned and too long for the ignorant. Nevertheless, it has given him a great fame, and has led to the giving of the name *Hamilton* to a small frigate which was carried through the streets of New York during the great Federal procession. . . . A stranger in his State, where he was educated through charity, Mr. Hamilton has found a means of carrying off the daughter of General Schuyler, a great landowner and very influential.

Langdon, John:

One of the most interesting and amiable men in the United States; former governor of New Hampshire, and head of a powerful party, which is in opposition to General Sullivan. Mr. L. has made a great fortune in commerce; he is the Rob. Morris of his State, spending generously and attracting many citizens through his liberality. He was one of the principal members of the Philadelphia Convention, but he stayed there only a few days, and though his colleagues had offered him the presidency, he did not wish to remain there, because he had in mind the Governorship of New Hampshire and because his business did not permit him a long absence. He is sincerely attached to France and even in favor of our institutions and manners. In order to spread the taste for our furniture, he has imported some of the best from Paris. It is said that he is jealous of his wife, something quite rare in America. Many French officers have found to their chagrin that this jealousy was entirely unfounded.

Livingston, William:

William Livingston, Esq., Governor [of New Jersey] since the beginning of the Revolution, very well informed, firm, patriotic, preferring the public welfare to popularity and having often endangered his position by opposing bad laws in the legislature. Although he does not cease to criticize the people, he is always re-elected since even his enemies agree that he is one of the cleverest and most virtuous men on the continent.

Madison, James:

Well-informed, wise, moderate, docile, studious; perhaps more profound than Mr. Hamilton, but less brilliant; intimate friend of Mr. Jefferson and sincerely attached to France. He was at the Congress very young and he appears to be particularly dedicated to public affairs. He could be some day Governor of his State, if his modesty would permit him to accept that place. Last time he refused to accept the presidency of the Congress. He is a man who should be studied a long time in order to form a just opinion of him.

Martin, Luther:

A distinguished lawyer who has written much against the resolutions of the Philadelphia Convention, of which he was a member.

Mifflin, Thomas:

Former General, president of the Congress, orator, etc. A declared and proven friend of France. Very popular and leading with astonishing facility that monster of a hundred heads called the people. A good lawyer, a good officer, a good patriot, and an agreeable society man. He does well everything he undertakes. . . .

Morris, Gouverneur:

Citizen of the State of New York, but always in contact with Rob. Morris and having represented Pennsylvania several times. Celebrated lawyer; one of the best organized heads on the continent, but without manners, and, if his enemies are to be believed, without principles; infinitely interesting in conversation, having made a special study of finances. He works constantly with Mr. Rob. Morris. He is more feared than admired, but few people esteem him.

Morris, Robert:

Superintendent of Finances during the war, the most powerful merchant in his State. A good head above all, and experienced, but not studious. He has grown a bit cold towards France. . . . Still it will be easy to win him back through proper handling. This is a man of the greatest weight, to whose friendship we cannot be indifferent.

Randolph, Edmund:

Present Governor [of Virginia], one of the most distinguished men in America by his talents and influence; nevertheless, he has lost a bit of his standing through his too-violent opposition to the ratification of the new Constitution. . . . We may consider him as being very indifferent to France.

Rutledge, John:

Governor [of South Carolina] during the war, member of Congress and of the [Philadelphia] Convention, as well as of other great conferences. The most eloquent, but also the proudest and most imperious man in the United States. He uses his great influence and his knowledge as a lawyer for not paying his debts, which greatly exceed his fortune. His son is traveling in France for his education.

Williamson, Hugh:

Physician and former professor of astronomy. Excessively bizarre, loving to hold forth, but speaking with spirit. It is difficult to know his character well; it is even possible that he does not have any; but his activity has given him much influence in Congress for some time.

Wilson, James:

Distinguished jurist. It was he who was designated by Mr. Gerard to be the lawyer of the French nation, a place which has since been recognized as useless. A haughty man, an intrepid aristocrat, active, eloquent, profound, a dissembler, known by the name of *James the Caledonian* which his enemies have given him. His participation in public affairs has led to a disorganization of his fortune. Indifferently attached to France.

V. SECTION-BY-SECTION ANALYSIS

Section 1

Section 1 establishes a Commission on the Bicentennial of the United States Constitution.

Section 2

Section 2 enumerates the findings of Congress that warrant this legislation.

Section 3

Section 3 states the purpose of S. 118 "to establish a Commission to promote and coordinate activities to commemorate the bicentennial of the Constitution." The four specific duties of the Commission stated in section 6 clarify the extent and limitations of the Commission's authority to "promote and coordinate."

Section 4

Section 4(a) sets forth the composition of the Commission on the Bicentennial of the United States Constitution. The Commission will consist of 16 members. The membership of the Commission will reflect the division of governmental responsibilities between three separate branches established by the Constitution itself. The legislative branch created by article I of the Constitution will be represented on the Commission by eight members. The House of Representatives, created by section 2 of article I, will be represented by the chairman of the House Judiciary Committee and three others appointed by the President upon the recommendation of the Speaker of the House. The Senate, created by section 3 of article I, will be represented by the chairman of the Senate Judiciary Committee and three others appointed by the President upon the recommendation of the President pro tempore of the Senate. The three additional Commission members appointed upon the recommendation of the Speaker and the three additional members appointed upon the recommendation of the President pro tempore (in consultation with the Senate majority and minority leaders) need not be members of the U.S. Congress. Instead the Speaker and the President pro tempore should consider the qualifications for Commission membership set forth in section 4(b) and seek nominees who have demonstrated those characteristics. The chairmen of the House and Senate Judiciary Committees are specifically designated as members of the Commission because their position necessitates the refinement of historical and constitutional scholarship and sense of public service "likely to contribute to the fulfillment of the duties of the Commission." See section 4(b) of S. 118. Moreover these committee chairmen traditionally represent the House and Senate in matters touching upon the Constitution.

The executive branch created by article II of the Constitution will be represented on the Commission by four members appointed at the sole discretion of the President of the United States. The President's discretion, however, should be guided by the qualifications for Commission membership specified by section 4(b).

The judicial branch created by article III of the Constitution will be represented on the Commission by four members. In particular, the Supreme Court of the United States, our highest judicial body, will be represented on the Commission by the Nation's highest judicial offi-

cer, the Chief Justice of the United States. Service by the Chief Justice on such a commission is not unprecedented. Indeed, in recent history, Chief Justice Earl Warren presided over a commission to investigate the assassination of President John F. Kennedy. Moreover, the Chief Justice currently serves in various other extra-judicial positions, such as Chancellor of the Smithsonian Institution. This committee recognizes, of course, that if the Chief Justice were requested to serve on a commission likely to become involved in litigation reviewable by the Supreme Court, he would feel justifiably obliged to excuse himself from participation. This Bicentennial Commission, in the view of this committee, would create no such conflict. On the other hand, the Chief Justice would contribute immeasurable prestige and expertise to the success of the mission of the Commission, as he did by participating appropriately in the American Revolution Bicentennial commemorations.

The judicial branch will also be represented by three other Commission members appointed by the President upon the recommendation of the Chief Justice. As stated earlier with respect to the other appointees representing a branch of government, these three members need not be Federal judges. Instead the Chief Justice, in exercizing his sole discretion to recommend appointees to the President for nomination, should look within the ranks of the State judiciaries as well as outside the community of judges altogether to select individuals with the qualities specified in section 4(b).

This committee wishes to emphasize the importance of representing the tripartite constitutional structure of our Government on the Bicentennial Commission. The committee approves of the sentiment of Prof. Richard B. Morris:

> The Commission [should] be so constituted as to give recognition to that separation of powers which the authors of the "Federalist" remind us is essential to free government. Hence, I would prefer to have a tripartite . . . commission—one that recognizes the equal and coordinate role under the Constitution of all three branches of government. (97th Congress hearing, supra.)

The document whose anniversary this Commission will help commemorate is based structurally on the principle that the three distinct functions of government should be divided amongst separate organs of government in order to kep to a minimum the powers lodged in any single man or group of men. In the words of James Madison:

> In order to lay a due foundation for that separate and distinct exercise of the different powers of government, which to a certain extent is admitted on all hands to be essential to the preservation of liberty, it is evident that each [of the three] department[s] should have a will of its own. . . .
>
> It may be a reflection on human nature that such devices should be necessary to control the abuses of government. But what is government itself but the greatest of all reflections of human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men

> over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. "*The Federalist Papers*," No. 51; 320, 322; the Mentor Books edition, 1961.

In light of the constitutional separation of the three branches of Government, the entire Government of the United States created by the Constitution would not be able to participate in the Commission's commemorative activities in the absence of explicit provisions creating a role for each governmental "department." A commemoration of the Constitution must respect to this degree the Constitution itself.

Section 4(b) states the qualifications that should guide the President, the Chief Justice, the Speaker of the House, and the President pro tempore of the Senate as they exercise their discretion in the selection of Commission members to be appointed by the President. The section mentions three criteria that should be weighed: historical and constitutional scholarship, willingness to engage in public service, abilities likely to contribute to the fulfillment of the duties of the Commission.

The type of scholarship that will most benefit the Commission is an understanding of the historical context of the Constitution, including an understanding of the values and mores of the period, the forces that shaped and affected the views and comprehension of the delegates to the Convention, and the events that produced the document and brought about its ratification within the States. By no means is this strictly confined to legal scholarship. To the extent practicable, the appointment process should reflect an interdisciplinary approach that recognizes the contributions that can be made by all fields of study.

By including the language "a strong sense of public service," the committee does not intend to confine Commission membership to those who have served in significant public offices. This is intended to be a measure of the willingness of the potential appointee to attend all Commission meetings and undertake all tasks necessary to insure the accomplishment of the duties of the Commission.

Finally the committee intends to guide the discretion of those selecting Commission members to achieve a balance of talents and abilities necessary for the achievement of the Commission duties. Achievement of this balance will probably influence the success of the Commission more than any other single factor. The Commission's mission will require individuals who have the prestige and ability to solicit private constitutions both for the Commission itself and for commemoration activities that may be under the direction of State or private entities. The Commission will need expert educators to carry out the task of raising the awareness of all Americans (perhaps the youth especially) about the specific features of the Constitution. The Commission will need public relations experts with the talent to communicate the Constitution's message to as broad an audience as possible. The Commission will require scholars to check the accuracy of the Commission's messages about the Constitution. Inasmuch as much of the leadership of commemoration activities is largely committed to State and private entities by S. 118, the Commission will certainly require individuals skilled in working with State governments and private organizations, corporations, and community groups. The Commission will surely need individuals with developed management abilities to coordinate

all these talents efficiency. This, of course, is not an exhaustive listing of the skills necessary for the success of the Commission, but it suggests that careful thought should be given to seeking the proper blend of talents to reach the objectives of the Commission by carrying out its duties.

Clearly expertise and ability should be the criteria for selection of Commission members, not party affiliation or political philosophy. Following the pattern set by the American Revolution Bicentennial Commission, enacted in 1966 during the administration of President Lyndon Johnson, this Commission charter makes no mention whatsoever of party balance or political affiliation. This is to be the entire Nation's bicentennial, not a celebration dominated by any political party or ideology.

Section 4(c) specifies that, once appointed, members should serve for the life of the Commission. This will assure a stable Commission membership and provide continuity throughout the life of the Commission. If Commission membership should vacillate every 2 years or every 4 years, the plans made at the outset would undoubtedly be revised too often for a coherent followthrough. The mission of the Commission requires that the membership not change, barring uncontrollable circumstances, once its work is underway.

Section 4(d) specifies how the Commission Chairman is to be chosen. Pursuant to this section, the membership of the Commission itself should select the Chairman at its first meeting. By tradition, the Chief Justice serves as the chairman of any commission on which he serves. This is left, however, by the statute to the Commission and the possible agreement of the Chief Justice. Once selected by secret ballot, the Chairman should serve for the life of the Commission. Once again, recurring shifts in leadership could impair the efficiency and continuity of the Commission.

Section 4(e) sets forth simple procedures for holding meetings. One-half of the Commission memberships will be a sufficient quorum to make any binding decisions on behalf of the entire Commission. The Commission may meet, however, in the absence of a quorum and conduct business subject to ratification by a majority vote of the next meeting where a quorum is present. This committee intends that the Commission hold its first meeting within 4 months of enactment of S. 118. This should provide ample time for appointment to be made and the Commission to gather for its first meeting. The three permanent members already designated by statute (the Chief Justice and the Judiciary Committee Chairmen) should take the initiative to contact the other members and arrange a convenient time and place for the first meeting. This committee also expects that the Commission will meet no less often than twice a year, although meetings will need to be far more frequent during the initial planning stages of the Commission's activities and when the actual commemoration dates of the Constitution draw near.

Section 4 (f) clarifies that a vacancy in the Commission should not affect its ability to make binding decisions and conduct business. As stated above, vacancies should not occur except in the unforeseeable instance of death or resignation in which instance the vacancy should be filled in the same manner in which the original membership of the Commission was constituted.

Section 5

Section 5 sets forth the authority of the Commission and the powers it may use to carry out its duties. These section 5 powers should be read as limits as well as extents of the Commission's authority. Powers not authorized in this section should not be inferred by the Commission.

Section 5 (a) authorizes the Commission to appoint a staff director at a basic rate of pay not in excess of level I of the executive schedule pursuant to section 5316 of title 5, United States Code. The Commission should give as much care to the selection of a staff director as is given to the appointment of Commission members. As day-to-day representative of the Commission, the staff director must have the experience to effect the Commission's directives. In his testimony before the Constitution Subcommittee, President Ford emphasized the importance of the staff director. He noted that the American Revolution Bicentennial floundered until a single leader of acknowledged status and ability was placed at the helm of the commemoration effort to direct the work on a day-to-day basis. This leader, who deserves great credit for the success of the American Revolution Bicentennial celebration, now serves in the U.S. Senate representing the State of Virginia; namely, John W. Warner. This Constitution commemoration will demand the same kind of leadership to pull together in the limited time left before 1987 a commemoration worthy of the Constitution.

Section 5 (b) permits the Commission to hire up to five additional personnel out of the public funds committed to the Commission. The salary of these additional publicly paid personnel will be fixed by the Commission. In making these additional hiring decisions, the Commission may act without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates. The number of additional duties is a matter left to the discretion of the Chairman of the Commission. These publicly paid personnel, however, are not to be compensated at a rate in excess of the rate equal to the maximum rate for GS–18 of the general schedule under section 5332 of title 5, United States Code.

The Commission is also permitted to hire additional personnel out of private donations. Such personnel would be subject entirely to the direction and control of the Commission and its staff director. This committee intends this power to be employed on a very limited basis only as necessary to accomplish the duties of the Commission. To the extent that the Commission has successfully raised funds for the commememoration effort, those moneys should be employed to the maximum extent feasible on projects and activities, including the limited number of projects to be undertaken by the Commission on behalf of the Federal Government, rather than on building an extensive organization to support the Commission.

Section 5 (c) clarifies that each member of the Commission shall serve without compensation. The members of the Commission will be entitled, if they so elect, to claim a reimbursement for any necessary expenses incurred by them in the performance of their duties, includ-

ing travel and subsistence expenses. On occasion the staff director may also find it necessary to travel within the United States in furtherance of the duties of the Commission in which case he, too, would be eligible for reimbursement.

Section 5 (d) is included in S. 118 due to the understanding of the committee that peak periods of activity may require more personnel than five additional publicly paid personnel (and private donations may not be available, particularly early in the Commission's life when much planning must be accomplished but contribution solicitations are not underway). During peak times, such as when the Commission is getting its activities underway or when specific commemoration dates are near, this provision will allow the procurement of temporary or intermittent services under section 3109 (b) of title 5, United States Code, at a rate of pay not to exceed the rate of basic pay for GS–15 of the general schedule under section 5332 of title 5, United States Code.

Section 5(e) generally governs the fiscal affairs of the Commission. The Commission is authorized to procure supplies (including stationery, furniture, and other items necessary for the duties of the Commission), services (in compliance with section 5 (b) and (d) of S. 118), and property (for office space or to carry out the duties of the Commission). In addition, the Commission may make contracts in connection with activities authorized as a duty of the Commission. For instance, one of the "limited number of projects to be undertaken by" the Commission on behalf of the Federal Government could be a television program depicting the history of the drafting of the Constitution. This would require considerable contracting with producers, actors, directors, broadcasters, and countless others. While much of the funding for such a project would undoubtedly come from private contributions, some appropriated funds may also be committed.

Section 5(f) permits the Commission to enter into agreements with the General Services Administration for procurement of necessary financial and administrative services. This should clearly include procurement of office space. These agreements should specify the amount of reimbursement due to the General Services Administration out of the funds of the Commission. The Chairman of the Commission will be responsible to negotiate such agreements.

Section 5(g) authorizes the Commission to solicit and accept donations. These donations may take the form of money, property, or personal services. Once received, the Commission may use and dispose of such donations. For instance, the Commission may use the secretarial services or business machines of a private entity under any agreement with the donor. The Commission may also dispose of donated moneys or property in furtherance of the duties of the Commission. This could include support for or funding to private foundations, citizens groups, governmental entities, and other organizations for historical research, citizen education, citizenship programs, conferences, publications, and other commemorative activities.

Donations to the American Revolution Bicentennial Administration were accorded tax deductible status. This committee intends to allow the continuation of this tax encouragement policy. The tax deductible status will encourage contributions to further the work of the Commission and to help it to achieve its objectives.

Section 5(h) permits the Commission to use the United States mails under the same conditions and in the same manner as other agencies and departments.

Section 5(i) gives the Commission the authority to design and use a logo as the official emblem of the Constitution's bicentennial. While the design of the emblem is left by the statute to the discretion of the Commission, this committee sees wisdom in the suggestion that minor design changes in the logo developed for the American Revolution Bicentennial Administration would save the cost and difficulty of selecting an entirely new emblem for this commemoration. Moreover that symbol is already well-recognized and is still seen often on flags and Federal buildings.

The Commission is also authorized to issue rules and regulations governing the use of the logo. This authority is limited to give the Commission the power to prevent unlicensed commercial exploitation and inappropriate display of the logo. For instance, a business should not be able to expropriate the logo and claim that its product is the "official bicentennial widget." On the other hand, the Commission may wish to allow corporations which have voluntarily contributed to the commemoration effort (either by supporting the Federal Commission or by supporting some State or private project) to appropriately display the logo when taking credit for their charitable contribution. The Commission may also wish to prevent the emblem from being displayed on some types of tasteless and vulgar memorabilia. The Commission is further authorized to issue regulations prescribing appropriate penalties for unlicensed commercial exploitation or inappropriated display. The primary standard the Commission should use for deciding what is exploitation or inappropriateness is what is "appropriate to carry out the purposes of this act."

Section 6

Section 6 sets forth the duties of the Commission and clarifies the factors that should inform the Commission's decisions relative to performing its duties.

Section 6(a) states the four purposes and duties of the Commission on the Bicentennial of the United States Constitution. The duties specified in this provision define the extent of as well as the limits on the authority of the Commission. The first duty, not necessarily in order of importance, of the Commission, is to plan and develop activities appropriate to commemorate the bicentennial. The Commission's planning should have two objectives. In the first place, the Commission should develop a master plan for the type of activities nationwide that would appropriately commemorate the Nation's foundational document. This master plan may include events proposed to be undertaken by State governments and private entities to commemorate historical events or persons critical to the drafting of the Constitution. This plan may also include educational programs for high school students and research projects proposed to be undertaken by State and local governments and private entities. This master proposal may further include a list of suggested activities that might be undertaken by communities or clubs of various sizes and with various degrees of interest in the commemoration. Each of the proposals developed in this planning stage would be proposals which the Federal Commission, in accordance with its second duty, may "encourage pri-

vate organizations and State and local governments" to undertake and execute. This plan is not, however, for the Commission on behalf of the Federal Government to undertake or execute.

In the second instance, the Commission should also develop a plan to choose and carry out a limited number of projects to be undertaken by the Commission on behalf of the Federal Government. By "limited number" the committee means two or three significant projects which can be accomplished within the resources of the Commission and which will bring credit and commendation to the Federal Government's efforts to commemorate its own birth. This section further clarifies that the Commission should select these few projects with an eye to harmonizing and balancing the important goals of ceremony and celebration with the equally important goals of scholarship and education. For instance, the Commission may decide to commission the production and broadcast of a television program of the highest quality tracing the lives of the 39 men from their various backgrounds to the moment they affixed their signatures to the Constitution and thereafter. This kind of project could truly be characterized as a gift of the Federal Government to its people because it could reach so many citizens in their own homes. For another example, the Commission may decide to commission a concerted research effort to uncover any additional historical evidence (perhaps forgotten in the attic of one of Madison's descendants) about what actually transpired in the Convention. The ultimate choice of the limited number of projects to be undertaken by the Federal Government is to be made by the Commission, but should be national in scope.

The first duty of the Commission requires two kinds of plans: (1) the general master plan for commemoration of the bicentennial, which will contain suggested activities for State, local, and private entities in addition to the limited number of Federal projects, and (2) the specific and detailed plan for funding and executing a few Federal projects, which will balance ceremony with education.

The second duty of the Commission is to encourage private organizations and State and local governments to organize and participate in bicentennial activities. A significant portion of the Commission's encouraging duty may be accomplished by publishing a thoughtful list of suggested commemorative activities for groups of various sizes and capacity. This provision specifically states that the activities should commemorate or examine the drafting, ratification, and history of the Constitution and the specific features of the document. The document itself, rather than the economic or social theories of any individual or Commissioner, should be the focal point of any program.

The third duty of the Commission is to coordinate, generally, activities throughout all of the States. This does not mean that the Commission should attempt to lead or direct the commemorative activities of the various State governments or of private entities within the States, but it does authorize the Commission to encourage these disparate organizations to act together in a smooth and concerted manner. The Commission might, for instance, work with the National Park Service to insure that the many different groups seeking access to Liberty Hall during the month of September 1987 harmonize their objectives and requests. The overall master proposal of the Commission should consider ways to coordinate commemorative activities of

various entities throughout all of the States. The committee intends the language "all of the States" to carry full meaning. The Commission should plan, develop, encourage, coordinate, and serve for the direct benefit of all States regardless of when they entered the Union. The Commission's coordinating duty should also include informing different groups that their planned activities may be in conflict on the chance that the groups with conflicting plans did not know of the incompatible plans.

The fourth, and final, duty of the Commission is to serve as a clearinghouse for the collection and dissemination of information about bicentennial events and plans. This is not a general power or obligation of the Commission to acquire and publish all information relevant to the bicentennial. On the contrary, this duty of the Commission is limited to acting as a clearinghouse for information about bicentennial events and plans. Thus, the committee intends the Commission to facilitate exchange of information about events and plans to present schedule conflicts, encourage adance planning, and give guidance to organizations seeking direction in their planning from the plans of other organizations.

Section 6(b) consists of 10 principles and concepts that should guide the Commission as it develops an overall master proposal and chooses a few projects for implementation by the Federal Government. These are:

1. The historical setting in which the Constitution was developed and ratified, including such antecedents as the Federalist Papers, the Articles of Confederation, and the ratification debates in the States. S. 118 is designed to commemorate an event, the bicentennial of the approval is Convention and ratification of the Constitution, and not other significant historical events that might be reasonably related to the Constitution but not relevant to its drafting and ratification.

2. The contribution of diverse ethnic and racial groups. America's Constitution benefited from the diverse backgrounds of its drafters and of those who influenced them.

3. The relationship and historical development of the three branches of the Government. The principle of separation of powers and its implementation deserve primary attention as a fundamental protection for individual liberties.

4. The importance of activities throughout all the States regardless of when such States achieved statehood. This bicentennial commemoration must, at least from the vantage point of the Federal Government, be given equal consideration in each of the 50 States.

5. The unique achievements and contributions of the participants in the Constitutional Convention of 1787 and the State ratification proceedings. The Constitution is the product of a gathering of men of remarkable talent and insight. A commemoration of the product cannot overlook the producers.

6. The diverse legal and philosophical views regarding the Constitution. The Constitution protects the liberties of all the people of the United States and their diverse views of its merits should be respected.

7. The need for reflection upon both academic and scholarly views of the Constitution and the principle that the document must be understood by the general public. The Constitution is not a document written only to be understood through the subtle interpretations of acade-

micians, scholars, and lawyers, but written to be plainly understood by the people it governs and protects. If the document is read only with fine distinctions that melt away the substance of the words and leave only considerations of the relative significance of various factors, the document's comprehensibility and dignity in the eyes of the people will suffer.

8. The substantive provisions of the Constitution itself. This encompasses the entire Constitution including the Bill of Rights and each of the 26 amendments.

9. The impact of the Constitution on American life and government. This acknowledges that all aspects of American freedom and prosperity for 200 years may be appropriately traced to the Constitution.

10. The significance of the principles and institutions of the Constitution to other nations and their citizens. As acknowledged by Chairman Thurmond, who added this provision to the bill, the Constitution has already served as a pattern for other nations and should continue to serve as a beacon for those who seek liberty.

Section 6(c) directs the Commission to seek the cooperation, advice, and assistance of private and governmental agencies and organizations. This section specifies the National Endowment for the Arts, the National Endowment for the Humanities, the Library of Congress, the Smithsonian Institution, the National Archives, and the Department of Interior as well as other Federal departments as agencies and organizations that could contribute greatly to the achievement of the objectives of the Commission. In addition, the Commission should seek ways to involve State and local governments, learned societies, academic institutions, and historical patriotic, philanthropic, civic, and professional groups, and bar associations in the activities of the Commission.

Section 6(d) permits the Commission to delegate authority to State advisory commissions to assist in implementing the act. This may, for instance, allow a State advisory commission to take over the clearinghouse functions of the Commission for requests for information originating in the advisory commission's State. In this case, the Commission.

Section 6(e) sets forth the Commission's obligation to report to the President, each House of Congress, and the Judiciary Conference. This provision includes a specific 2-year deadline (after enactment of S. 118) for submission of the Commission's overall comprehensive master proposal for commemoration of the bicentennial. This provision gives additional guidance on the areas of recommendations and proposals the comprehensive report should include: publications, scholarly projects, conferences, programs, films, libraries, exhibits, ceremonies, and other projects, competitions and awards, and a calendar of major activities and events to commemorate specific historical dates.

Each year after submission of this comprehensive report on the Commission's general master proposal, the Commission is obligated to submit an annual report outlining its progress toward fulfilling each of its duties. Upon termination of the Commission, its final report should summarize (without producing volumes of report material) its success in fulfilling those duties and reaching the objectives of the bicentennial commemoration.

Section 7

This section sets the termination date of the Commission at December 31, 1989. Several significant events vitally linked to the drafting and ratification of the Constitution occurred in 1789. In the legislative branch, the First Congress was officially organized on April 6, 1789. The first legislation enacted by Congress was signed by the President on June 1. In the executive branch, President George Washington was inaugurated on April 30, 1789. The first Cabinet-level departments (State, Treasury, and War) were created and the first Cabinet Secretaries, the Attorney General, and the Postmaster General were appointed in 1789. In the judicial branch, the Judiciary Act of 1789 was passed on September 24. John Jay was confirmed as the first Chief Justice on September 26 and the associate justices were appointed the following week. Finally, and perhaps most significantly, the Congress submitted the Bill of Rights to the States for ratification on September 25. New Jersey was the first State to ratify on November 20, 1789.

The Commission, as it approaches its termination, should give consideration to provide that unexpected funds are appropriately disposed and all financial and other obligations are satisfied.

Section 8

Section 8 authorizes the appropriation of $300,000 for fiscal year 1983 and such sums as may be necessary for the subsequent fiscal years until the termination of the Commission in 1989. The appropriation authorized for the initial year is well within the President's budget request for this purpose.

Leaving the amount of appropriations unspecified for the years after 1983 is intended to provide the Appropriations Committee the discretion to adjust the $300,000 amount downward based on the success of the Commission's fund raising efforts.

VI. REGULATORY IMPACT STATEMENT

In compliance with rule 29.5 of the Standing Rules of the Senate, the committee finds that the implementation of S. 118, as reported, will not result in increased regulation. S. 118, as reported, establishes a Commission on the Bicentennial of the United States Constitution to plan and coordinate a national commemoration of this important historical event. The only authority granted this commemorative commission to issue rules or regulations permits issuance of appropriate rules or regulations to govern the use of the logo chosen by the Commission as the official emblem of the bicentennial. This will not impose affirmative duties upon State or private entities, but only govern or condition use of the bicentennial emblem.

VII. COST OF LEGISLATION

U.S. CONGRESS
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., April 14, 1983.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 118, a bill to provide for the establishment of a Commission on the Bicentennial of the Constitution, as ordered reported by the Senate Committee on the Judiciary, April 12, 1983.

The bill would establish a 16-member Commission to plan and develop activities appropriate to commemorate the bicentennial of the Constitution. Two years after enactment of this bill, the Commission would submit to the President, both Houses of Congress and to the Judicial Conference a comprehensive report incorporating specific recommendations of the Commission for commemoration and coordination of the bicentennial and related activities. The Commission would be authorized to employ a staff of up to six persons to be paid out of Federal funds. Additional personnel could be hired using private donations. The commissioners would serve without compensation, with the exception of reimbursement for travel, subsistence and other necessary expenses incurred in the performance of their duties.

The bill authorizes the appropriation of $300,000 for fiscal year 1983 and such sums as may be necessary through 1989. Assuming enactment by June 1, 1983, and appropriation of the authorized sum, it is expected that the bill will result in no significant outlays in fiscal year 1983, since the Commission would not begin performing its duties until very late in the year. It is estimated that outlays for the Commission would be about $300,000 in fiscal year 1984, with small annual increases resulting in outlays of about $375,000 by 1988.

Enactment of this bill would not affect the budgets of State and local governments.

Should the committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

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